

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, FEBRUARY 23, 2010

7 P.M. COUNCIL MEETING

CALL TO ORDER – Mayor Hamilton called the meeting to order in the Council Chambers.

SALUTE TO THE FLAG – Lakewood Village Color Guard led the Salute to the Flag.

ROLL CALL

PRESENT:

Mayor Melinda Hamilton
Vice Mayor Christopher Moylan
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Anthony (Tony) Spitaleri
Councilmember David Whittum
Councilmember Jim Griffith

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Finance Mary Bradley
Director of Community Development Hanson Hom
Director of Public Safety Don Johnson
Director of Public Works Marvin Rose
City Clerk Kathleen Franco Simmons

CLOSED SESSION REPORT FOR FEBRUARY 23, 2010

Closed Session pursuant to Government Code Section 54956.8 – Conference with Real Property Negotiator.

Vice Mayor Moylan reported a closed session was held; direction was given and no action was taken.

SPECIAL ORDER OF THE DAY – Recognition of Returning Councilmember Otto Lee.

SPECIAL ORDER OF THE DAY – Recognition of former Interim, Councilmember Dean Chu.

PUBLIC ANNOUNCEMENTS

Councilmember Swegles presented a special greeting to returning Councilmember Otto Lee from California Governor Arnold Schwarzenegger.

CONSENT CALENDAR

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve the Consent Calendar.

VOTE: 7 - 0

- 1.A. Approval of Special Council Meeting Minutes of January 29, 2010**
- 1.B. Approval of Council Meeting Minutes of February 9, 2010**
- 1.C. Approval of Information/Action Items – Council Directions to Staff**

Fiscal Items

- 1.D. RTC 10-046 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 490, 491 and 492**

Staff Recommendation: Review the attached lists of bills.

- 1.E. RTC 10-049 Appropriation of Emergency Management Performance Grant Funds and Approval of Budget Modification No. 21**

Staff Recommendation: Approve Budget Modification No. 21 to appropriate the EMPG monies for the local emergency preparedness efforts.

- 1.F. RTC 10-048 Transmittal of the FY 2006/2007 Performance Results Audits for Public Works Programs: 217 – Concrete Maintenance and 218 – Street Tree Services**

Staff Recommendation: Receive the audit report and concur with management's acceptance of recommendations.

- 1.G. RESOLUTION Regional Transportation Improvement Program for Downtown Sunnyvale Streetscape Improvements – Resolution of Support and Budget Modification No. 19**
RTC 10-051

Staff Recommendation: Approve the attached Resolution of Support and Budget Modification No. 19 to appropriate grant revenues in the amount of \$1.5 million from the CDT Capital Grant Program to new project Sunnyvale Downtown Streetscape Improvements, as well as appropriate the CDT Capital Grant program required 20% local match of \$375,000.

- 1.H RESOLUTION Federal Jobs for Main Street Transportation Funding – Approval of Resolution of Support and Budget Modification No. 22**
RTC 10-044

Staff Recommendation: Approve the attached Resolution of Support committing to complete the projects and stating the City's understanding of the funding process, and approve Budget Modification No. 22 to anticipate funding of \$1.8 million from the Jobs for Main Street program and to appropriate grant funds as follows if funding is received: (1)

\$500,000 to new project Curb Ramps on Arterial and Collector Streets, (2) \$830,000 to new project Light Emitting Diode Streetlight Replacement, Phase II, and (3) \$500,000 to new project Fair Oaks Avenue/Wolfe Road Traffic Signal Reconstruction.

Contracts

- 1.I. RTC 10-052 Award of a Contract for a Land Use and Transportation Element Update Environmental Impact Report (EIR) and Climate Action Plan (CAP) for the Department of Community Development (F0908-17) and Approve Budget Modification No. 23**

Staff Recommendation: Award a contract in the amount of \$499,732, including applicable taxes, to Pacific Municipal Consultants, to prepare a Land Use and Transportation Element Update Environmental Impact Report (EIR); and approve a project contingency in the amount of \$49,973; and approve Budget Modification No. 23.

Sunnyvale Works!

- 1.J. RTC 10-043 Award of Sunnyvale Works! Contract for the Design of Citywide Waterline Replacements 2010 (F0902-76)**

Staff Recommendation: Award a contract to Infrastructure Engineering Corporation, in an amount not to exceed \$119,500, for the design of Citywide Waterline Replacements 2010; and approve a project contingency in the amount of \$11,950.

- 1.K. RTC 10-047 Award of Sunnyvale Works! Contract for the Design of Citywide Waterline Replacements 2011 (F0902-77)**

Staff Recommendation: Award a contract to Carollo Engineers, in an amount not to exceed \$105,434, for the design of Citywide Waterline Replacements 2011; and approve a project contingency in the amount of \$10,543

Other Items

- 1.L. ORDINANCE 2914-10 Adoption of Ordinance No. 2914-10 Amending Section 10.16.030 of Chapter 10.16 (Parking Regulations) of Title 10 (Vehicles And Traffic) of the Sunnyvale Municipal Code Relating to Emergency or Special Event Parking Signs**

Staff Recommendation: Approve second reading of Ordinance No. 2914-10.

- 1.M. RTC 10-040 Resolution Adopting a Citywide Records Retention and Destruction Schedule**

Staff Recommendation: Adopt the Resolution Adopting a Citywide Records Retention and Destruction Schedule as submitted.

1.N. RTC 10-041 Approval of Final Map (Tract No. 9872) – Forty-eight Condominium Units at 1170 Morse Avenue by Classic Communities, Inc.

Staff Recommendation: Approve the final map for Tract No. 9872; authorize the Mayor to sign the subdivision agreement upon: developer's signatures, submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign the City Clerk's Statement; and direct the City Clerk to forward the final map for recordation.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

None.

PUBLIC HEARINGS/GENERAL BUSINESS

**2. MOTION Award of Taxicab Franchise to California Cab Company
 RTC 10-029**

Director of Public Safety Don Johnson provided the staff report.

Public hearing opened at 7:22 p.m.

No speakers.

Public hearing closed at 7:22 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to introduce and adopt an ordinance awarding a non-exclusive franchise for taxicab service to California Cab for the period of April 2, 2010 through April 1, 2012 per applicant's request, and authorize the city manager to execute necessary documents of agreement.

City Clerk Kathleen Franco Simmons read the ordinance title for the record.

VOTE: 7 - 0

**3. MOTION 2009-0753: Appeal By the Applicant of the Conditions Imposed by
 RTC 10-038 the Planning Commission in Approving a Use Permit for a Fence in
 the Front Yard at 805 Devonshire Way**

Councilmembers Whittum and Griffith disclosed they met with the appellant.

Planning Officer Trudi Ryan provided the staff report.

Planning Officer Ryan confirmed for Councilmember Whittum that the Eichler Design Guidelines are guidelines, not requirements.

Planning Officer Ryan confirmed for Councilmember Whittum that the fence does not violate the Sunnyvale Municipal Code.

Councilmember Whittum inquired if it's relevant for Council to consider the existing similar structures in the neighborhood as they review this appeal. Planning Officer Ryan confirmed that Council can consider other structures in the neighborhood as it applies to neighborhood character. She stated staff suggests Council also consider separating what has happened in a neighborhood in the past from what Council would want to occur in the neighborhood in the future.

Councilmember Griffith stated that the guidelines focus on height from the curb and inquired as to what extent the guidelines take slope into account as compared to just looking at the distance from the curb. Planning Officer Ryan stated the guidelines are not that detailed and would accommodate a preference for a taller fence in a yard up on a slope. She stated that when staff looked at this application they felt that the further back the fence was located, the taller the fence could be. Ryan stated there are opportunities to have a fence that from ground to top level that may be taller, as long as it is set back further from the curb.

Councilmember Griffith stated with a significant slope, if you're measuring from the curb the privacy may be significantly reduced on a fence that is set back. He stated it doesn't seem the existing guidelines protect privacy as much as they should. Griffith stated he is also concerned that in comparison with 814, the fence at 814 is six inches taller at grade than the applicant's proposal. Planning Officer Ryan stated the fence across the street was approved for a certain height at a certain setback and it was determined that could be replicated on this property.

Public hearing opened at 7:33 p.m.

Mayor Hamilton stated the appellant would have ten minutes to make his presentation and five minutes at the end of the public hearing to comment.

Appellant Bret Flesner provided a PowerPoint presentation.

Councilmember Whittum asked the appellant his plans for landscaping. Flesner responded that he would like to soften up the look of the fence and add more vegetation.

Flesner explained for Vice Mayor Moylan the circumstances under which the fence was constructed before there was a permit from the City.

Flesner confirmed for Vice Mayor Moylan that the third option provided by the Planning Commission was not acceptable because the fence would be too short and a tree may need to be removed.

Councilmember Spitaleri asked the appellant questions about the vision triangle.

Peter Rohr, Eichler resident, spoke in support of the existing fence.

Raymond Heller, neighbor, spoke in support of the existing fence.

Charles Fogle, neighbor, spoke against the existing fence.

Flesner provided additional comments.

Public hearing closed at 8:01 p.m.

Councilmember Swegles inquired about a similar situation at a property on Sheraton Drive previously. Planning Officer Ryan stated she thought the Council decision on that fence was to allow it within two feet of the line of garage, which put it 17-18 feet back from the property line.

Councilmember Whittum confirmed with Planning Officer Ryan that the current Eichler design guidelines provide greater liberality in terms of the positioning of a fence.

Councilmember Whittum asked Planning Officer Ryan to comment on a fence the appellant presented a photo of which looks similar to the appellant's fence. Planning Officer Ryan commented that staff feels the design of the subject fence is very attractive and is in the style of the Eichler homes, consistent with that aspect of the Eichler Design Guidelines, but the height and setback become the areas of concern.

Planning Officer Ryan confirmed for Councilmember Whittum that a condition can be imposed that says there will be a landscape plan approved by staff, but there are some limitations in the parking strip because it is part of the public right-of-way. Councilmember Whittum recalled that previously on a reducible front yard, there were conditions that the fence could go up to the sidewalk, but one of the conditions included a requirement for landscaping to be introduced to screen the fence. Planning Officer Ryan stated that in the most recent regulations that became effective last December, Council adopted that any fence at four feet would not require a permit; after four feet, a use permit is required.

Councilmember Griffith asked Planning Officer Ryan about the appellant's proposed Option A on page 26, one of the options in the decision already made on the property; to observe a setback that is equivalent to within two feet of the garage line.

Councilmember Griffith stated that his understanding of Option A is that the appellant is offering exactly what we're asking for; he just doesn't want to drop the fence down six inches. Planning Officer Ryan stated her understanding is that the appellant's desire is to have a taller fence closer to the property line. Councilmember Griffith re-stated Option A seems to be exactly staff's recommendation and the Planning Commission's recommendation, except for dropping the fence down lower. Planning Officer Ryan stated the appellant is asking that if Option A is chosen, to allow it to be the same height as the original fence with the house, which he's saying is 11 feet 4 inches from the curb.

Mayor Hamilton inquired what the minimum setback that would be allowed if someone in another part of the City wanted to build a room onto the front of their house so it would extend into the front yard. Planning Officer Ryan stated that in any part of the City the front yard setback on a single family home is 20 feet. Planning Officer Ryan stated that fences in other parts of the City that are not Eichlers, staff has tried to look at the decision on the Eichler on Sheraton Drive in terms of the location and setback as a guideline for what might be appropriate in other neighborhoods.

MOTION: Councilmember Whittum moved to grant the appeal and approve the use permit, striking conditions one and two and inserting a landscape plan subject to staff approval.

Motion died for lack of second.

MOTION: Councilmember Spitaleri moved and Vice Mayor Moylan seconded the motion to deny the appeal and approve the Use Permit with the conditions imposed by the Administrative Hearing Officer and Planning Commission.

Vice Mayor Moylan spoke to the motion and explained that because the Planning Commission was unanimous on this decision and the fence was constructed before the permit was approved, Council should support staff recommendation.

Councilmember Whittum stated he is in favor of the fence as constructed as it does a good job conforming to the Eichler guidelines. Councilmember Whittum added that he is concerned that he finds himself on the opposite side of the Planning Commission vote, but he feels it is relevant that they thought there was a code issue, which is a misunderstanding as this is not the code; these are guidelines.

Councilmember Griffith stated that after speaking with the owner, his understanding of what the owner did was to build a fence to the same standard as his neighbor at 814, with the difference being that he didn't have as much of a setback. Councilmember Griffith stated it was a mistake to build the fence without approval and a mistake to assume it was acceptable to move the setback back. Councilmember Griffith stated the area he thinks is unfair is the height since he is being asked to build lower than the other fence. Griffith stated if we were to grant the use permit according to what staff recommended and allow the same height, the appellant's Option A, it would be granting him the same permission we have already granted someone else on the same street.

FRIENDLY AMENDMENTS: Councilmember Swegles asked the maker of motion if the appellant could have leniency in the amount of time to comply. Councilmember Spitaleri accepted the amendment and proposed doubling the time to 60 days to obtain a permit and 180 days for completion. Vice Mayor Moylan proposed that if one of the options which will satisfy the conditions of approval would otherwise require chopping down the tree, the fence be allowed to wrap around the tree. Councilmember Spitaleri accepted the amendment.

VOTE: 5 - 2 (Councilmembers Griffith and Whittum dissented)

**4. ORDINANCE Revisions to Sunnyvale Municipal Code Section 16.62 - Areas of
RTC 10-032 Special Flood Hazard**

Director of Community Development Hom provided the staff report.

Director Hom confirmed for Councilmember Swegles that if an address is listed as being included in the floodplain, the entire parcel is not necessarily included in the floodplain; either a portion of the site or the entire site is included in the floodplain.

Public Hearing opened at 8:24 p.m.

No speakers.

Public hearing closed at 8:24 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve the ordinance changes in Attachment A.

City Clerk Kathleen Franco Simmons read the ordinance title for the record.

VOTE: 7 - 0

**5. MOTION 2009-0077: Coordinating Zoning for Projects Located Near City
RTC 10-042 Borders (Study Issue)**

Director of Community Development Hom provided the staff report.

Public Hearing opened at 8:34 p.m.

No speakers.

Public hearing closed at 8:34 p.m.

MOTION: Councilmember Spitaleri moved and Councilmember Lee seconded the motion to direct the city manager to work with adjacent cities to agree upon and administratively implement a list of best practices for planning and development review coordination.

Councilmember Spitaleri thanked staff for putting the report together and stated one of his goals as Mayor was to get the cities together to talk about how we can address similar issues facing our communities.

Vice Mayor Moylan offered an amendment to direct the city manager to propose individually to each of our neighboring cities an agreement similar to Attachment H including the option of granting some level of decision-making authority within the 1000 foot zone to both City Councils on either side of that border. Vice Mayor Moylan added that of all the areas of sensitivity where something might be happening on the border, except for the Lawrence Station Transit Village joint project, every other project is something that we anticipate the neighboring city might want to do that our citizens might not want right on the border. Vice Mayor Moylan added that if we were willing to give up some of our "home rule" within 1000 feet of the border, we would win.

FRIENDLY AMENDMENT: Vice Mayor Moylan restated that the amendment would be to direct the city manager to approach each neighboring city with a proposal for a Memorandum of Understanding for projects being developed within 1000 feet of the City border on either side, including the option of granting authority over those projects to both City Councils.

Councilmember Spitaleri stated he supports the amendment.

City Attorney David Kahn provided information regarding the need to review the City Charter as well as the charter for the other cities. City Attorney Kahn stated there may be a legal issue with the Council, the elected body for the City, giving authority to anyone other than the City Council; generally the City Council is fully responsible for decisions within its border, as are the Councils for the other cities. City Attorney Kahn said it may be possible but it may also require a Charter amendment.

Vice Mayor Moylan added that the amendment should be consistent with the City Charter.

Councilmember Spitaleri accepted amendment.

City Manager Luebbers added that he has had a conversation with a neighboring city and was told they would decline that type of offer; that they are not going to give up any authority to make land use decisions in their city but would consider a best practices type of non-binding agreement.

Councilmember Spitaleri commented that the idea is the start to a conversation and may open the doors to cooperate more.

Mayor Hamilton stated she can't support the motion and added that Council is responsible to the citizens who elected them and she is not comfortable potentially ceding that authority to another elected body.

VOTE: 5 - 2 (Mayor Hamilton and Councilmember Whittum dissented)

**6. MOTION 2008-0481: Creation of a Land Use and Transportation
RTC 10-039 Element/Climate Action Plan Community Advisory Committee**

Community Development Director Hom provided the staff report.

Director Hom responded to questions by Councilmember Griffith regarding the number of commissions and committees which will review the LUTE and CAP.

Councilmember Swegles confirmed with Director Hom that the dot exercise is not something new, but something which has been used on many occasions in different areas.

Public Hearing opened at 8:55 p.m.

Kevin Jackson, speaking on his own behalf, expressed concern that the Bicycle and Pedestrian Advisory Commission's involvement is not included in the report.

Barbara Fukumoto, speaking on her own behalf, stated that she supports the staff recommendation to create an advisory committee and suggested that Council be open to creating a larger committee to involve more Sunnyvale residents. Fukumoto agreed that it would be appropriate to include the Bicycle and Pedestrian Advisory Commission in the study sessions.

Councilmember Lee inquired about Fukumoto's suggestion for a larger committee. Fukumoto encouraged Council to not hold fast to fifteen members.

Arthur Schwartz stated he supports the idea of having the Bicycle and Pedestrian Advisory Commission involved. Schwartz cautioned against making the committee too large.

Public hearing closed at 9 p.m.

Director Hom commented that the original work program includes coordinating with the Bicycle and Pedestrian Advisory Commission and there is no proposed change to the scope; the Planning Commission is designated as the official recommendation body on the LUTE.

MOTION: Vice Mayor Moylan moved and Councilmember Griffith seconded the motion to explicitly include the Bicycle and Pedestrian Advisory Commission (BPAC) and the Sustainability Commission, if it is up and running at the appropriate time, and to approve a modified version of Alternative 2 and Alternative 4: to strike number 1 from the numbered list in Alternative 2. The motion authorizes a LUTE/CAP Advisory Committee to act in an advisory capacity during preparation of the LUTE and CAP, and to assist in community outreach efforts. The committee would consist of up to 15 members representing a broad cross-section of the community. The advisory committee would serve two functions:

- 1) Serve as an advisory body during preparation of the LUTE and CAP; and
- 2) Assist in conducting additional outreach and education programs for the community, but it would not be chartered to consider whether the Community Vision Sub-element should be substantially revised.

Vice Mayor Moylan stated he does not think the committee should be chartered to revise the Community Vision because it would be taking a much smaller fraction of the community and asking them to revise the views of a much larger fraction of the community.

Councilmember Griffith expressed concern about the committee having more than 15 members and stated he thinks up to 15 members is a good number.

Mayor Hamilton stated she supports the motion since the Community Vision is only three years old and it would not be worth the staff time to go back and invalidate it.

VOTE: 7 - 0

Mayor Hamilton inquired if any Councilmembers are interested in serving on the Council Subcommittee to come up with recommendations for the advisory committee.

Councilmember Swegles recommended Councilmember Lee, Vice Mayor Moylan and Councilmember Griffith for the committee.

Mayor Hamilton stated that Vice Mayor, Griffith and Whittum are the two representatives and alternate for the General Plan Consolidation Committee.

Councilmember Swegles volunteered to serve on the committee.

Councilmember Lee accepted Councilmember Swegles' recommendation.

Councilmember Spitaleri volunteered to serve on the committee.

Councilmember Swegles declined to serve on the committee.

Hamilton Hamilton volunteered to serve on the committee.

Mayor Hamilton announced Councilmember Lee, Councilmember Spitaleri and herself will serve on the committee.

**7. MOTION Adoption of 2010 Tentative Council Meeting Agenda Calendar
RTC 10-053**

Assistant City Manager Robert Walker provided the staff report.

Mayor Hamilton confirmed with Assistant City Manager Walker that the \$430,000 is for consultant fees and cash outlay, not staff time, and the monies are not contained in this year's budget.

Mayor Hamilton announced State of the City is July 4, 2010.

Councilmember Spitaleri inquired about the reason for not having a Council meeting on the day of a special mail ballot. City Manager Luebbers stated any of the open dates are available to schedule a Council meeting. Councilmember Spitaleri commented that there are 24 dates in which Council meetings are not scheduled and that he would rather have a Council meeting scheduled and cancelled than not scheduled at all.

Mayor Hamilton commented that the Fremont Union High School District is putting a parcel tax on the May 4 ballot.

Vice Mayor Moylan confirmed with City Manager Luebbers that there will be no Council meeting on August 3, National Night Out.

Public Hearing opened at 9:12 p.m.

Paul Stewart requested that Council consider or direct staff to come back with a proposal to consider adding back in the framework for permitting and regulating medical cannabis dispensaries in the City of Sunnyvale. Stewart stated he would like to set up a meeting with the Director of Public Safety and the Director of Community Development.

Councilmember Whittum confirmed with Director of Community Development Hanson Hom that the medical marijuana study issue was below the line.

Councilmember Whittum inquired if it is within the parameters of the meeting agenda for Council to vote to reconsider the medicinal marijuana dispensaries. Assistant City Manager Walker responded that Council could let the city manager know they would like to go below the line and ask the city manager to come back and indicate to Council what resources would need to be added in order to complete the study.

Public hearing closed at 9:18 p.m.

Councilmember Spitaleri inquired about how and why the issue fell below the line. City Manager Luebbers responded that staff time was allocated in the order of Council ranking, and staff got to the fifth item with the amount of time the community development director thought he could allocate to study issues.

MOTION: Councilmember Whittum moved and Councilmember Spitaleri seconded the motion to request the city manager take a look at what is involved in bringing back below the line items CDD 09-04 Zoning Code Requirements for Political Signs and CDD 10-03 Framework for Permitting and Regulating Medical Marijuana Dispensaries.

City Manager Luebbers confirmed with Councilmember Whittum the report would include not just what it would take to do the studies, but the potential trade offs in order to do the studies.

Councilmember Spitaleri commented that the two study issues are important and he hopes that staff can go back and take a look at the issues.

Councilmember Griffith stated he opposes the motion because it violates the spirit of the Brown Act as there is no opportunity for public input tonight.

Councilmember Lee inquired of City Attorney Kahn if the item could be placed on the agenda of an upcoming Council meeting to allow for public input.

City Attorney Kahn stated that the substance of the study issue would not be before the City Council because it was not noticed on the agenda.

Vice Mayor Moylan stated the study issues have been ranked and the request is to overrule some of that. Vice Mayor Moylan stated there are number of issues in CDD that have been working their way up the list for years and anything we would divert funds from to complete CDD 09-04 and CDD 10-03 would come from another issue ranked higher. Vice Mayor Moylan stated he objects to re-ranking the study issues; the other issues will likely come back next year.

Councilmember Whittum commented that Council is not re-ranking them, but taking them in their rank order and asking staff what would happen if the line was drawn two items lower.

Councilmember Swegles commented that staff has already looked at the cost and what would be involved in the completing the issue, which is why staff is asked to draw the line.

Councilmember Spitaleri stated Council is limited to selecting their top four choices for certain departments and not for others, and suggested that uniform ranking be done for all departments.

Mayor Hamilton stated the problem with drawing the line two items down is that funding would have to be identified. Mayor Hamilton added she was disappointed it wasn't ranked higher but could not support going back and spending the staff time now to rearrange it.

Councilmember Whittum restated the motion and commented that medical marijuana dispensaries, if properly zoned and regulated, would be a net financial plus for the City in the 20-year budget.

VOTE: 1 - 5 (Councilmember Lee, Councilmember Griffith, Vice Mayor Moylan, Mayor Hamilton, and Councilmember Swegles dissented; Councilmember Spitaleri abstained)

MOTION: Councilmember Griffith moved and Councilmember Lee seconded the motion to approve staff recommendation to approve the 2010 Tentative Council Meeting Agenda Calendar with the additional changes proposed regarding National Night Out and the other comments regarding uncommitted dates that could be reused as needed and approve the deferral of study issues requiring funding until the costs and corresponding expenditure cuts are incorporated into the FY 2010/2011 Recommended Budget.

VOTE: 7 - 0

8. COUNCIL DISCUSSION Discussion and Possible Action Regarding Google Fiber for Communities Program

Mayor Hamilton stated she requested the item be placed on the agenda and would like Council to approve submittal of an application by staff.

Councilmember Swegles commented that Comcast is coming out with a high speed service and we already have a contract with them and inquired how that would work. Information Technology Director Cuong Nguyen responded that Comcast and AT&T are offering high speed internet, but not to the degree that Google is planning to offer. Director Nguyen stated he believes Comcast is looking at 10 MB; Google is going to be 100 times faster.

Mayor Hamilton stated Europe has faster connections at lower prices than we do in the United States. Google is piloting this in an effort to raise the level of broadband.

Councilmember Griffith confirmed with Director Nguyen about the difference between Google's proposition and Comcast; Comcast and the others are not proposing laying additional cable or building additional infrastructure, whereas Google is talking about laying new wire.

Public Hearing opened at 9:40 p.m.

No speakers.

Public hearing closed at 9:40 p.m.

City Manager Luebbers stated that a committee of three directors has been put together to work on the application.

Mayor Hamilton commented that residents can nominate their community.

MOTION: Vice Mayor Moylan moved and Councilmember Lee seconded the motion to apply for the Google Fiber for Communities Program.

Vice Mayor Moylan commented that with a 50% office vacancy rate, if we suddenly had one gigabit service to our offices it would be a big advantage in filling the office space and make a big difference in the budget.

Councilmember Griffith stated one of Google's criteria for doing this was the presence of developers in the community who can take advantage of the bandwidth in order to develop interesting applications and there are going to be few cities out there that are as qualified to meet that as Sunnyvale. Councilmember Griffith added it is a huge element of prestige if we are selected because of the business it will bring in and the visibility it will bring to Sunnyvale.

City Manager Luebbers added that staff is going to put a link on the splash page of the City Web site and stated staff will be looking at other outreach.

VOTE: 7 - 0

**9. MOTION Board and Commission Appointments
RTC 10-050**

City Clerk Kathleen Franco Simmons provided the staff report.

Board of Building Code Appeals (2 vacancies)

Longest term expiring 6/30/2012:

Roger Ludlow

VOTE: 7 - 0

Term expiring 6/30/2011:

Patrick Walz

VOTE: 7 - 0

City Clerk Kathleen Franco Simmons announced Roger Ludlow has been appointed to the Board of Building Code Appeals with a term expiring June 30, 2012.

City Clerk Kathleen Franco Simmons announced Patrick Walz has been appointed to the Board of Building Code Appeals with a term expiring June 30, 2011.

Housing and Human Services Commission (1 vacancy)

Term expiring 6/30/2012:

Younil Jeong

VOTE: 5 - 0 (Councilmembers Spitaleri and Swegles abstained)

Jin Huang

VOTE: 4 - 0 (Councilmember Griffith, Vice Mayor Moylan and Mayor Hamilton abstained)

City Clerk Kathleen Franco Simmons announced Younil Jeong has been appointed to the Housing and Human Services Commission with a term expiring June 30, 2012.

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Swegles reported he received a notice from the Governor's office that Bonnie Reiss has been appointed to be the new Secretary of Education.

Councilmember Swegles reported he recently made a presentation at a meeting of the Milpitas City Council. He stated they passed a Resolution of Support for the Local Taxpayer Public Safety and Transportation Protection Act sponsored by the League of California Cities and asked whether it is on the agenda yet. Mayor Hamilton agreed that it should be put on the agenda.

Councilmember Swegles recommended attending council meetings of other cities to observe different ways of doing meetings. He noted that in Milpitas, at the beginning of the meeting the city attorney asks the city council if any of them have anything they want to disclose on any item on the agenda.

Councilmember Whittum reported the West Valley Advisory Committee of the Santa Clara Valley Water District met on February 10 and reviewed a proposed new fee schedule. He stated it was discussed and requested the board to continue it to their next meeting to allow time to reflect on it and receive more public input. Councilmember Whittum stated he forwarded it to staff for comment and from the standpoint of the City's finances, there are no particular concerns. He stated the Water District Board will consider imposing some fees to recover costs, and the title is "Discuss and provide comments to the board for consideration of proposed fee schedule for the recovery of some costs related to issuance of some encroachment permits and license fees for certain uses in District property". He stated it will be coming back at the May meeting of the Advisory Committee if it doesn't already go before the board before then.

Councilmember Griffith reported he had nothing to report from the VTA PAC yet.

Councilmember Griffith reported he attended his first meeting of the Recycling and Waste Reduction Commission for the County of Santa Clara. He stated the commission passed a broad vision of the Zero Waste Initiative in the county. Councilmember Griffith stated he believes Sunnyvale is ahead of what the county is proposing. He stated at the next meeting the commission will discuss potential wording for a polystyrene ban, specifically with regard to food containers.

Councilmember Griffith reported March 20 will be the Great American Litter Pickup event.

Mayor Hamilton reported the Santa Clara County Cities Association put together its priorities for the year in January. Mayor Hamilton reported she attended a meeting with Russell Hancock of Joint Ventures Silicon Valley at which Association President David Casas, Mayor of Los Altos, provided a presentation of the priorities and talked about a number of items on which the association and Joint Venture can work together in collaboration and cooperation.

NON-AGENDA ITEMS & COMMENTS

Councilmember Swegles provided a reminder of an upcoming Thursday dinner and discussion regarding water and its availability. Councilmember Swegles reported "Super Saturday" is coming up and encouraged Council to attend.

Councilmember Griffith requested to sponsor a study issue on exploring a requirement for adequate wiring for car chargers in new residential developments. Councilmember Whittum offered to co-sponsor this issue.

Mayor Hamilton requested to sponsor a study issue to consider going to a paperless Council agenda. Councilmember Griffith offered to co-sponsor this issue.

Councilmember Whittum requested to sponsor a budget issue for the following year, to consider doubling the half-time senior care management hours, from 20 to 40 hours per week. Mayor Hamilton confirmed with the City Manager he would take note of it for next year.

Councilmember Whittum requested to receive information as to why the outreach transit for seniors is \$ 4.00 a ride in Sunnyvale but is \$ 2.00 a ride in Santa Clara. Mayor Hamilton confirmed with the City Manager the information will be provided in a future report.

INFORMATION ONLY REPORTS/ITEMS

- Draft Minutes of the Board of Library Trustees Meeting of February 1, 2010
- Draft Minutes of the Heritage Preservation Commission Meeting of February 3, 2010
- RTC 10-045 Opportunity for Council to Appeal Decisions of the Planning Commission of February 8, 2010

ADJOURNMENT

Mayor Hamilton adjourned the meeting in memory of Jane Chavis at 10:01 p.m.

Kathleen Franco Simmons
City Clerk

Date